

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 2273 of 1997

with

F.A. Nos. 2275, 2276, 2279 & 2282 to 2287,  
2289 & 2291 of 1997

For Approval and Signature:

Hon'ble MR.JUSTICE Y.B.BHATT and  
MR.JUSTICE C.K.BUCH

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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SPECIAL LAND ACQUISITION OFFICER

Versus

HARIBHAI CHHAGANBHAI

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Appearance:

GOVERNMENT PLEADER for Appellant

MR AJ PATEL for Respondent No. 1

MR NV SOLANKI for Respondents in FA 2283/97

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CORAM : MR.JUSTICE Y.B.BHATT and  
MR.JUSTICE C.K.BUCH

Date of decision: 10/03/98

ORAL JUDGEMENT

Per : Y.B. Bhatt, J.

1. Heard the learned counsel for the respective

parties. Appeals admitted. Mr. A.J. Patel appears for the opponents-original claimants and waives service in these appeals ( except in F.A. No. 2283/97 where Mr. N.V. Solanki appears and waives service for opponent-claimants).

2. At the joint request of learned counsel for the respective parties, these appeals are taken up for final hearing today.

3. This group of appeals arises under section 54 of the Land Acquisition Act read with section 96 CPC, and are filed by the State of Gujarat challenging the common judgment and awards passed by the Reference Court under section 18 of the said Act.

4. The lands in question were notified for acquisition, and are situated in village Nandarkha and were acquired for Luvara Branch Canal forming part of the Narmada Project. The notification under section 4 was issued on 27th March, 1986. Thereafter the Land Acquisition Officer declared his award under section 11 of the said Act on 4th February, 1988 and determined the market value of the said lands at Rs. 45/- per Are. The respondents-original claimants preferred the Reference Applications under section 18, which resulted in the impugned common judgment and awards, wherein the market value of the lands has been determined by the Reference Court at Rs. 650/- per Are.

5. The only contention raised in these appeals by learned counsel for the appellant is on a question of proper and appropriate determination of the market value of the acquired lands at the hands of the Reference Court.

6. We have heard the learned counsel for the respective parties on merits and also on the evidence, to the extent necessary for the purpose of the respective parties. However, our attention has been drawn to an earlier decision of a Division Bench of this Court dated 3rd July, 1997 in First Appeal No. 1396/97 with F.A. Nos. 1397/97 to 1402/97.

6.1 There is no controversy amongst the learned counsel for the respective parties that the said decision would completely cover and govern the facts of the present case inasmuch as the lands in question under consideration in the said decision were situated in the same village, were acquired for the same purpose and project, and the relevant notification under section 4

was dated 3rd February, 1986. In other words, the decision in question dealt with the acquisition which was notified under section 4 approximately six weeks prior to the relevant notification in the instant group of appeals.

6.2 We may further add that the aforesaid decision also specifically deals with another decision in a Land Reference Case (under section 18) wherein the relevant notification under section 4 was dated 27th March, 1986, namely; the very same notification with which we are concerned in the present group of appeals.

6.3 In the aforesaid decision, the earlier Bench has dealt with the aspect of determination of the market value of the lands under consideration on merits, and on a total consideration of the evidence on record, determined the market value of the acquired lands at Rs. 650/- per Are. Thus, we find on summation, that apart from an interval of only six weeks between the two notifications under section 4, there is no practical and material difference between the aforesaid decisions on merits and on the facts which prevail in the present group of Land Reference Cases under consideration.

7. Thus, for the reasons recorded in the aforesaid decision, we see no reason, and learned counsel for the appellant is unable to point out any such reason, how we can be persuaded to take any other view and/or determine any other figure for the market value of the lands under consideration.

8. On the facts and in the circumstances of the case, we determine the market value of the lands under acquisition in the instant group of Land Reference Cases at Rs. 650/- per Are to be the correct and appropriate valuation and accordingly confirm the impugned common judgment and awards.

9. These appeals are therefore dismissed with no order as to costs.

10. The appellant - State is directed to deposit in the Reference Court separately in each Land Reference Case the amount of compensation together with cost and interest thereon latest by 15th June, 1998.